

Applicants: Alan R. Tall et al.
Serial No.: 09/898,554
Filed: July 2, 2001
Page 5

REMARKS

Claims 5, 40, 59 and 60 are pending in the subject application. Claims 41 and 51-58 have been allowed by the Examiner. Applicants herein cancel claims 5, 40, 59 and 60 without prejudice. Accordingly, upon entry of this Amendment, no more claims will be under examination.

Rejection under 35 U.S.C. §112, Second Paragraph

The Examiner rejected claims 5 and 40 under 35 U.S.C. §112, second paragraph, for allegedly failing to point out and distinctly claim the subject matter which the applicants regard as the invention.

Specifically, the Examiner alleges that claim 5 recites the term "specifically hybridizes" without providing the hybridization conditions for the claim. Accordingly, the Examiner alleges that claim 40, which depends upon claim 5, is similarly unclear.

Without conceding the correctness of the Examiner's rejection, applicants herein cancel claims 5 and 40. Accordingly, the Examiner's rejection of these claims is now moot.

Rejection Under 35 U.S.C. §102(b)

The Examiner rejected claims 5 and 40 under 35 U.S.C. §102(b), as allegedly anticipated by the Nagase et al. reference.

Applicants: Alan R. Tall et al.
Serial No.: 09/898,554
Filed: July 2, 2001
Page 6

Specifically, the Examiner alleges that the Nagase et al. reference teaches a cDNA encoding a rat LOX-1 protein, preparation of probes for rat LOX-1, and the labeling of the probes. Thus, the reference allegedly meets the limitations of claim 5.

Without conceding the correctness of the Examiner's rejection, applicants again note that claims 5 and 40 have been canceled. Accordingly, the Examiner's rejection of these claims is now moot.

The Examiner also rejected claims 59 and 60 under 35 U.S.C. §112(b), as allegedly anticipated by Sawamura et al.

Specifically, the Examiner alleges that the Sawamura et al. reference teaches a total cell lysate and a soluble extract comprising LOX-1. Thus the Sawamura et al. reference allegedly meets the limitations of claims 59 and 60.

Without conceding the correctness of the Examiner's rejection, applicants herein cancel claims 59 and 60. Accordingly, the Examiner's rejection of these claims is now moot.

Summary

In view of the remarks made herein, applicants maintain that all claims pending in this application are in condition for allowance. Accordingly, allowance is respectfully requested.

If a telephone interview would be of assistance in advancing the

Applicants: Alan R. Tall et al.
Serial No.: 09/898,554
Filed: July 2, 2001
Page 7

prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,



I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Mail Stop AF

Alan J. Morrison
Registration No. 37,399

Date

John P. White
Registration No. 28,678
Alan J. Morrison
Registration No. 37,399
Attorneys for Applicants
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036
Tel. No. (212) 278-0400